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09/936,504	09/11/2001	Marlo Wandel	3968.008	6088

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EXAMINER

WHITE, CARMEN D

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/936,504

Applicant(s)

WANDEL ET AL.

Examiner

Carmen D. White

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3714

### ***Drawings***

The drawings filed are acceptable for examination purposes. Formal drawings will be required when allowable subject matter is indicated.

### ***Information Disclosure***

Applicant submitted references that were cited on the International Search report. However, Applicant did not submit a copy of an IDS that lists these references for the examiner to initial, sign and date. Therefore, unless the references were cited on the PTO-892 by the examiner, they have not been considered. A copy of the references submitted by Applicant and cited on the PTO-892 will not be mailed with this office action.

### ***Abstract***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

Claim 17 is objected to because of the following informalities: the claim recites "wherein the measurement values are recorded a video recording of the experimentee

Art Unit: 3714

is made" in lines 1-2. This passage appears to be missing a comma (,) between "recorded" and "a". Appropriate correction is required.

Claim 18 is objected because of the following informalities: the claim ends with a comma (,). This appears to be a typographical error. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10-21 recite the limitations "the recorded measurement", "the measurement result", "the observer" in lines 12-13, 17-18 and 19, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 has information in parentheses that makes the claim unclear. It makes it difficult to determine the scope of the claim for examination purposes.

Claims 15-16, recite "wherein there are provided means, by means of which the club head behavior, in particular its direction and rotation in the golf swing, is detected". This wording of this passage of the claim is not clear. It makes it difficult to determine the scope of the claim.

Claim 19 recites "the address position", "the upper reversal point", "the hitting point" and "the final position" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites "the present comparative data" and "the overall card recordal" in lines 1-2 and 6. There is insufficient antecedent basis for this limitation in the claim.

Claims 22-27 recite "the recorded measurement values" in line 12-13. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites "the observer" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (EP 0 494 749 A1) in view of Johnson (5,638,300) or Curchod (5,791,351).

Regarding claims 10, 14-19, Moore teaches a method for analyzing the pattern of movements of the thoracolumbar part of the spinal column in a golf swing that comprises positioning a plurality of measurement value pick-ups along the spinal column of a human body of a golfer; wherein the measurement value pick-ups are adapted for detecting the direction of movement of the body measurement points to be sensed during the golf swing; and coupling the measurement value pickups to a data processing apparatus which processes the recorded measurement values (abstract; Fig. 1; Fig. 4; col. 9, lines 36-43). Moore lacks the explicit disclosure of comparing the values of one golfer to another. In an analogous golf measurement system, Curchod or

Art Unit: 3714

Johnson teach the feature of comparing the golf swing values of a golfer to other stored golf values of a model golfer or the golfer's own prior values (Curchod-Fig. 6A and Fig. 6B; Johnson- col. 9, lines 39-59). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Moore to include the comparison of one golfer's statistics to other golfer statistics, as taught by Curchod or Johnson, in order to help the golfer further improve his/her swing technique.

Regarding claims 20-21, Moore in view of Johnson or Curchod teaches all the limitations of the claims as discussed above. The references are silent regarding the recording of handicaps for the various golfers' measurements. The examiner asserts that it is well known in the art to incorporate handicap data in a golfer's measurements. This improves statistics for less experienced golfers. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this in the recording systems of Moore, Johnson and Curchod in order to improve the quality of feedback to the golfer.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (EP 0 494 749 A1) in view of Johnson (5,638,300) or Curchod (5,791,351), further in view of Linial et al (4,665,928).

Regarding claims 11-13, Moore in view of Johnson or Curchod teaches all the limitations of the claims as discussed above. While Moore teaches pickups on the spinal column, Moore is silent regarding there being three pick-ups and the pick-up of data in the specific areas recited in claim 13. However, in an analogous motion measurement device, Linial teaches the use of three pick-ups situated along the spine

Art Unit: 3714

(Fig. 1, #10i, #10k and #10n), which pick up measurement from these specific areas of the spine. It would have been obvious to a person of ordinary skill in the art at the time of the invention to employ the pick-ups of Linial in Moore in order to more accurately sense the motion of the golfer. This would improve the feedback to the golfer; thereby, helping the golfer to improve his/her swing.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (EP 0 494 749 A1) in view of Linial et al (4,665,928).

Regarding claim 23, Moore teaches all the limitations of the claim as discussed above. Moore lacks teaching the use of three pick-ups. Linial teaches this feature (see explanation above).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22 and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore.

Regarding claims 22 and 24-27, Moore teaches all the limitations of the claims as discussed above.

Art Unit: 3714

***Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Salvatore, Hudson, Latella and Moran teach golf data measurement devices.

***USPTO Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for unofficial communications and 703-305-3579 for official communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

  
cdw

  
**JESSICA HARRISON  
PRIMARY EXAMINER**